IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7517 OF 2002

Dilip Bhanudas Pujari & ors. .. Petitioners.

Vs

Ananda Bhiva Shirke & ors. .. Respondents

Shri Vinod Jadhav, for Mr M.V.Sali, for the petitioners.
Shri Dilip Bodake, for respondent no.2.

CORAM : D.B.BHOSALE,J.

DATE : 30.11.2005.

PC:

1. Heard the learned counsel for the parties.

2. This petition is directed against the judgment and order dated 10.8.2001 passed by the First Ad hoc Addl.District Judge, Karad in Misc. Civil Appeal No.41 of 2000, by which the appeal filed by the respondents-plaintiffs was allowed and the petitioners-defendants were restrained from obstructing possession of the plaintiffs over the suit land till the disposal of the suit, subject to certain conditions

mentioned in the operative part of the order. The trial Court has rejected the application Exhibit-5 filed by the respondents-plaintiffs vide order dated 2.8.1997.

3. This Court, while issuing notice on 19.12.2002, granted ad-interim relief in terms of prayer (d) which was confirmed while admitting the writ petition on 16.3.2004. Prayer (d) reads thus :

> "(d) The petitioners further respectfully pray that pending the hearing and final dispute of this writ petition in this Hon'ble High Court, Your Lordships will kindly be pleased to stay the effect and operation of the judgment and order passed in Misc. Appeal No.41 of 2000 in the Court of the learned Addl.District Judge, Karad, Dist. Satara inclusive of taking possession of the suit land as otherwise the petitioners will have to suffer a heavy and irreparable loss."

The interim order has been operating against the respondents since 19.12.2002. The learned counsel for the parties are not in a position to state as to whether the suit is still pending. There was no stay to the further proceedings of the suit. No efforts whatsoever

were made by the respondents for getting the interim order vacated. Keeping that in view and considering the overall facts and circumstances of the case, I am satisfied that merits need not be examined at this stage of the proceedings and the following order shall meet the ends of justice.

(a) The trial Court shall decide Regular Civil Suit No.171/97 as expeditiously as possible, preferably within a period of one year from the date of receipt of this order.

(b) The interim relief granted by this Court shall remain operative till the disposal of the suit.

(c) © The trial Court shall decide the suit on merits in accordance with law and uninfluenced by the observations made in the instant proceedings arising from Exhibit-5 application.

(d) Rule is disposed of accordingly.

(D.B.Bhosale,J.)